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Administrative Appeal Decision - Wiggins, Matthew (2019-06-06)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Wiggins, Matthew

Facility: Released

NYSID: [REDACTED]

Appeal Control No.: 11-117-18 R

DIN: 12-A-5408

Appearances: Charles Greenberg Esq.
3840 East Robinson Road
#318
Amherst, New York 14228

Decision appealed: October 25, 2018 revocation of release and imposition of a time assessment of 9 months.


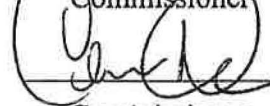

Final Revocation Hearing Date: October 24, 2018

Papers considered: Appellant's Brief received March 29, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Notice of Violation, Violation of Release Report, Final Hearing Transcript, Parole Revocation Decision Notice

Final Determination: The undersigned determine that the decision appealed is hereby:

	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	
	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	
	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	

If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 6/6/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Wiggins, Matthew

DIN: 12-A-5408

Facility: Released

AC No.: 11-117-18 R

Findings: (Page 1 of 1)

Appellant challenges the October 25, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 9-month time assessment. Appellant is on parole for possessing over 10 grams of heroin. The current parole violation, which appellant pled guilty to, is for failing to complete the [REDACTED] program. Appellant raises only one issue, that being the time assessment imposed is harsh and excessive.

Appellant has been released from custody and placed back onto parole. Claims that the time assessment hold imposed is excessive are rendered moot when the inmate is subsequently released onto parole during the course of the litigation. Adams v New York State Division of Parole, 89 A.D.3d 1267, 932 N.Y.S.2d 388 (3d Dept. 2011); Horton v Travis, 18 A.D.3d 922, 793 N.Y.S.2d 778 (3d Dept. 2005); Gray v Travis, 239 A.D.2d 631, 657 N.Y.S.2d 118, 119 (3d Dept 1997); Darnell v David, 300 A.D.2d 766, 750 N.Y.S.2d 802 (3d Dept 2002); Gainey v Stanford, 157 A.D.3d 1176, 70 N.Y.S.3d 589 (3d Dept. 2018). As such, the appeal is dismissed as being moot.

Recommendation: Affirm.